



ATTORNEY DOCKET NO. 9336-7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Timothy M. Crowder et al.

Confirmation No.: 6209

Serial No. 10/607,389

Group Art Unit: 3754

Filed: June 26, 2003

For: **APPARATUS, SYSTEMS AND RELATED METHODS FOR DISPENSING
AND/OR EVALUATING DRY POWDERS**

Date: October 14, 2003

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of June 26, 2003 rather than June 27, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of June 26, 2003 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

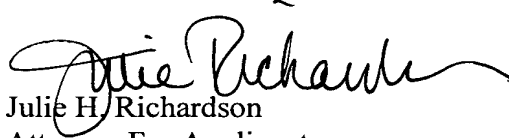
1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Pickup Service Statement dated June 26, 2003;
3. A true and accurate copy of the Track & Confirm from the United States Postal Service website (www.usps.com) indicating receipt of the Express Mail package at the Post Office on June 26, 2003 and delivery of the package at the USPTO on June 27, 2003; and
4. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of June 27, 2003 instead of the Express Mail date of June 26, 2003;

In re: Timothy M. Crowder et al.
Serial No. 10/607,389
Filed: June 26, 2003
Page 2 of 2

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of June 26, 2003 as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,



Julie H. Richardson
Attorney For Applicant
Registration No. 40,142

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 14, 2003.


Rosa Lee Brinson

JHR

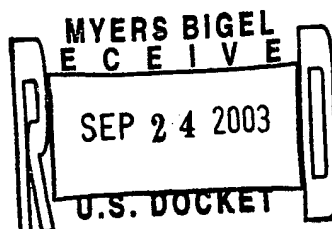
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/607,389	06/27/2003	3754	654	9336-7	16	51	3

20792

MYERS BIGEL SIBLEY & SAJOVEC
 PO BOX 37428
 RALEIGH, NC 27627



CONFIRMATION NO. 6209

FILING RECEIPT



OC000000010903689

Date Mailed: 09/22/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Timothy M. Crowder, Durham, NC;
 Anthony J. Hickey, Chapel Hill, NC;
 Vanessa Boekestein, Durham, NC;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/434,009 05/08/2003
 which claims benefit of 60/379,521 05/10/2002
 and claims benefit of 60/392,671 06/27/2002
 and claims benefit of 60/440,513 01/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/17/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

09-24-03 AGO:17 IN

Apparatus, systems and related methods for dispensing and /or evaluating dry powders

Preliminary Class

222

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 9336-7

DATE: June 26, 2003

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER
AND FEE TRANSMITTAL FORM (37 CFR 1.53(b))**

Mail Stop PATENT APPLICATION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR 1.53(b) is:

- ☐ a patent application
☐ a Continuation ☐ a Divisional ☒ a Continuation-in-Part (CIP) Application of prior application no.: 10/434,009; filed May 8, 2003, the disclosure of which is hereby incorporated herein by reference in its entirety.
☒ and claims the benefit of Provisional Application Nos. 60/392,671 filed 6/27/02; and 60/440,513, filed 1/16/03, the disclosure of which is hereby incorporated herein by reference in its entirety.

Inventor(s) or Application Identifier:

Timothy M. Crowder, Durham, NC

Anthony J. Hickey, Chapel Hill, NC

Vanessa Boeckestein, Durham, NC

Entitled: **APPARATUS, SYSTEMS AND RELATED METHODS FOR DISPENSING AND/OR EVALUATING DRY POWDERS**

Correspondence Address:



20792

PATENT TRADEMARK OFFICE

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form (*A duplicate is enclosed for fee processing*)
2. ☒ 49 pages of Specification (including 51 claims)
3. ☒ 16 sheets of Formal Drawings (35 USC 113)
4. ☐ Oath or Declaration
 - a. ☐ newly executed (*original or copy*)
 - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*)) [Note Box 6 Below]
 - c. ☐ **DELETION OF INVENTOR(S)** (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated

by reference therein.

7. ☐ Microfiche Computer Program (*Appendix*)
8. ☐ Assignment papers (*cover sheet(s) and document(s)*)
9. ☒ Applicant claims small entity status. See 37 CFR 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and _____ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of _____ Application No. _____ ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
 a. ☐ computer readable copy
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 c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
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TOTAL CLAIMS	51 - 20 =	31	x 09 = \$ 279.00	x 18 = \$
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☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
 a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted, •



Julie H. Richardson

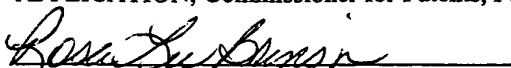
Registration No. 40,142

CERTIFICATE OF EXPRESS MAILING

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- ENROUTE, June 26, 2003, 7:49 pm, RALEIGH, NC 27623
- ACCEPTANCE, June 26, 2003, 5:32 pm, RALEIGH, NC 27612

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Sir: 07-15-03 A08:47 IN

Kindly acknowledge receipt of the accompanying items listed below
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✓ Application Transmittal and:

✓ Specification pages 49

✓ No. of Claims 51

— Declaration & POA

— Assignment and Fee

— Small Entity Statement

✓ Formal Drawings/ 16 sheets

— Associate Power of Attorney

✓ Exp. Mail

1st Class Mail

Other:

Application Filed Under 37 CFR 1.41(c)
Return Post Card

JMR/r/b

Date: 6-26-03

Doc. No. 9336-7

Serial No. TBA

Inventor: Crowder et al.

✓ Check \$ 654.00

— IDS & PTO-1449 & refs.

— Amendment & Amend. Transmittal

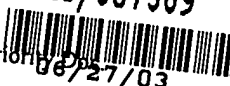
— Preliminary Amendment

— Issue Fee

— Brief

— Appeal

— Submittal of Prior Art

U.S. PTO
10/607389Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant